

shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purpose of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per shipment without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms *U.S. No. 1*, *U.S. No. 2*, *Size B*, *moderately skinned* and *slightly skinned* shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566) including the tolerances set forth therein. The term *prepeeling* means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in §52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute “other processing.” The term *manufacture or conversion into specified products* means the preparation of potatoes for market into products by peeling, slicing, dicing, apply-

ing material to prevent oxidation, or other means approved by the committee, but not including other processing. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

[47 FR 32911, July 30, 1982, as amended at 52 FR 7269, Mar. 10, 1987; 55 FR 41181, Oct. 10, 1990; 66 FR 49513, Sept. 28, 2001; 74 FR 65393, Dec. 10, 2009; 75 FR 17036, Apr. 5, 2010; 76 FR 80214, Dec. 23, 2011]

EDITORIAL NOTE: After January 1, 1979, “Budget of Expenses and Rate of Assessment” regulations (e.g., sections .201 through .299) and “Handling” regulations (e.g. sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For the FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

## PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

### Subpart—Order Regulating Handling

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## Subpart—Handling Regulations

- 953.322 Handling regulation.

AUTHORITY: 7 U.S.C. 601–674.

SOURCE: 19 FR 8683, Dec. 18, 1954, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

EFFECTIVE DATE NOTE: At 76 FR 33969, June 10, 2011, part 953 was suspended, effective June 13, 2011, through Mar. 1, 2014.

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## Subpart—Order Regulating Handling

### DEFINITIONS

#### § 953.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States, or any other officer or member of the United States Department of Agriculture who is or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

#### § 953.2 Act.

*Act* means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

#### § 953.3 Person.

*Person* means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

#### § 953.4 Production area.

*Production area* means and includes the counties of Accomack, Northampton, Nansemond, James City, the cities of Chesapeake and Virginia Beach in the State of Virginia and the counties of Northampton, Halifax, Nash, Edgecombe, Pitt, Lenoir, Jones, and Onslow and all counties east thereof in the State of North Carolina.

[33 FR 8503, June 8, 1968]

#### § 953.5 Potatoes.

*Potatoes* means all varieties of Irish potatoes grown in the production area.

#### § 953.6 Handler.

*Handler* is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes in fresh form, whether or not of his own production.

#### § 953.7 Ship.

*Ship* is synonymous with *handle* and means to transport, sell, or in any manner place potatoes in the current

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of interstate commerce or so as directly to burden, obstruct, or affect such commerce.

[33 FR 8503, June 8, 1968]

### § 953.8 Producer.

*Producer* means any person engaged in the production of potatoes for market.

### § 953.9 Fiscal period.

*Fiscal period* means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the committee.

[33 FR 8503, June 8, 1968]

### § 953.10 Committee.

*Committee* means the Administrative Committee, called the Southeastern Potato Committee, established pursuant to § 953.15.

### § 953.11 District.

*District* means, describes, and refers to each of the geographic divisions of the production area hereby established as follows:

*District No. 1.* Accomack County in the State of Virginia.

*District No. 2.* Northampton County in the State of Virginia.

*District No. 3.* James City and Nansemond Counties and the cities of Chesapeake and Virginia Beach in the State of Virginia.

*District No. 4.* Northampton, Gates, Hertford, Bertie, Chowan, Perquimans, Pasquotank, Currituck, and Camden Counties in the State of North Carolina.

*District No. 5.* Halifax, Nash, Edgecombe, Pitt, Lenoir, Jones, Onslow, Carteret, Pamlico, Craven, Beaufort, Martin, Washington, Tyrrell, Hyde, and Dare in the State of North Carolina.

[33 FR 8503, June 8, 1968]

### § 953.12 Reapportionment and redistricting.

The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. With respect to any such changes, the committee and the Secretary shall give consideration to:

(a) Shifts in potato acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts;

(d) Economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and

(e) Other relevant factors.

[33 FR 8503, June 8, 1968]

## ADMINISTRATIVE COMMITTEE

### § 953.15 Establishment and membership.

(a) The Southeastern Potato Committee, consisting of 12 members of whom seven shall be producers and five shall be handlers is hereby established. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member.

(b) Persons selected as members or alternates of the committee shall be individuals who are producers or handlers, respectively, in the respective district for which selected, or officers or employees of a corporate producer or handler, respectively, in such district: *Provided*, That no person, if he handles potatoes, shall be eligible for selection as a producer member on said committee unless 51 percent or more of the potatoes handled by him during the then current fiscal year were of his own production, or unless such person is an officer or employee of a producer's cooperative marketing association.

[19 FR 8683, Dec. 18, 1954, as amended at 33 FR 8503, June 8, 1968]

### § 953.16 Term of office.

(a) The term of office for committee members and alternates shall, except as otherwise specified, be for 1 year. The dates on which such term of office shall begin and end shall be established by the Secretary pursuant to the committee's recommendations, and the term of office may be extended or shortened, including that of the then current membership, to accord therewith.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion

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thereof, beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

[33 FR 8503, June 8, 1968]

### **§ 953.18 Nominations.**

The Secretary may select members of the committee and alternates from nominations which may be made in the following manner:

(a) A meeting or meetings of producers and handlers shall be held by the committee for each district to designate nominees for members and alternates to the committee;

(b) At least one nominee shall be designated for each position as member and for each position as alternate member on the committee;

(c) The names of nominees shall be supplied to the Secretary in such manner and form as he may prescribe, not later than September 15 of each year, or by such other date as may be specified by the Secretary;

(d) Only producers may participate in designating producer nominees and only handlers may participate in designating handler nominees. Any person who operates in more than one district or is engaged in producing and handling potatoes, shall elect the classification (i.e., producer or handler), and the district within which he desires to participate in designating nominees;

(e) Regardless of the number of districts in which a person produces or handles potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the district in which he elects to vote.

[33 FR 8503, June 8, 1968]

### **§ 953.19 Selection.**

(a) The Secretary shall select one producer member in and for each of Districts 1, 2, and 3, and two producer members in and for each of Districts 4 and 5 from nominees submitted pursu-

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ant to § 953.18 or from other eligible persons. In addition, he shall similarly select one handler member from each district. The respective alternates shall be selected on the same basis of representation as the members.

(b) The term of office of the committee members and alternates for District No. 6 shall be terminated upon deletion of such district from the production area.

(c) For the 1968-69 term of office the second producer member and his alternate for each of Districts No. 4 and 5 shall be selected as soon as practicable after deletion of District No. 6 from the production area. Nomination meetings shall be held for these positions pursuant to § 953.18 and the selections shall be made pursuant to this section for the remainder of the 1968-69 term of office.

[33 FR 8504, June 8, 1968]

### **§ 953.20 Failure to nominate.**

If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 953.18, the Secretary may, without regard to nominations, select the members and alternate members of the committee, which selection shall be on the basis of the representation provided for in § 953.19.

### **§ 953.21 Acceptance.**

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within the time specified by the Secretary.

[33 FR 8504, June 8, 1968]

### **§ 953.22 Vacancies.**

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § 953.18, or the Secretary may select such member or alternate member from previously unselected nominees

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on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in §953.19.

### § 953.23 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is alternate during such member's absence. In the event of death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for the unexpired term of such member is selected and has qualified.

### § 953.24 Procedure.

(a) Nine members shall constitute a quorum of the committee and any action of the committee shall require nine concurring votes.

(b) The committee may provide procedure for meeting by telephone, telegraph, or other means of communications, and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided*, That if an assembled meeting of the committee is held all votes shall be cast in person.

### § 953.25 Expenses and compensation.

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of committee powers under this subpart. In addition, they may receive reasonable compensation at a rate recommended by the committee and approved by the Secretary.

[33 FR 8504, June 8, 1968]

### § 953.26 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

### § 953.27 Duties.

It shall be the duty of the committee:

(a) To act as intermediary between the Secretary and any producer or handler;

(b) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(c) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary;

(d) To furnish to the Secretary such available information as he may request;

(e) To select subcommittees of committee members, a chairman and such other officers as may be necessary, and to adopt such rules and regulations for conduct of its business as it may deem advisable;

(f) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon;

(g) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers;

(h) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person; and

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(i) To consult, cooperate and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this subpart.

### **§ 953.28 Obligations.**

Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office or to a trustee designated by the Secretary and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or trustee full title to all the property, funds, and claims vested in such member pursuant to this section: *Provided*, That the provisions of this subpart shall apply to alternate members in possession of funds, property, books or records, or participate in the receipt or disbursement of funds.

### **§ 953.29 District committees.**

Potato producers and handlers in each district, as defined in § 953.11, may establish and organize a District Committee of potato producers and handlers within each such district for the purpose of assisting in an advisory capacity the members of the Southeastern Potato Committee from their district. The size and composition of each such District Committee shall be determined by producers and handlers within each district. Reports on the size and composition of each District Committee shall be made available upon request to the Southeastern Potato Committee. The members of such District Committees shall not receive compensation from any funds dispersed by the Southeastern Potato Committee. Members of District Committees may be selected at meetings sponsored by the Southeastern Potato Committee. The terms of office of members of District Committees shall coincide with the terms of office of members of the Southeastern Potato Committee.

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### **EXPENSES AND ASSESSMENTS**

### **§ 953.33 Expenses.**

The committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the committee pursuant to the provisions of this subpart during each fiscal year. The funds to cover such expenses shall be acquired by levying assessments as provided in § 953.34.

### **§ 953.34 Assessments.**

(a) Each handler who first handles potatoes shall, with respect to the potatoes so handled by him, pay to the committee such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers: *Provided*, That the rate of assessment during each fiscal year shall not exceed 1 cent per hundred-weight.

(b) At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

### **§ 953.35 Accounting.**

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately and to the extent practical to the persons from whom it was collected: *Provided*, That each handler

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may be credited with such refund, for the operations of the following fiscal period, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

(2) The committee, with the approval of the Secretary, may establish an operating monetary reserve, and may carry over into subsequent fiscal periods such excess in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used by the committee (i) to defray expenses authorized pursuant to § 953.33, (ii) to defray expenses during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers from whom collected, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person or persons to act as trustee or trustees for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations are not in effect; and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

[33 FR 8504, June 8, 1968]

### § 953.36 Funds.

All funds received by the committee pursuant to any provision of this subpart shall be used solely for the purposes specified in this subpart and shall be accounted for in the following manner:

(a) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a member of the committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.

## REGULATIONS

### § 953.40 Marketing policy.

Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § 953.41, the committee shall prepare a marketing policy, and promptly submit a copy thereof to the Secretary, setting forth its proposed policy for the marketing of potatoes during such fiscal period. In the event it becomes advisable to deviate from such marketing policy, because of changed demand and supply conditions, or as the Secretary may request, the committee shall formulate a revised marketing policy and shall submit a report thereon to the Secretary. Notice of each such marketing policy and revision thereof shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be available for examination at the committee office to all interested parties.

[33 FR 8504, June 8, 1968]

### § 953.41 Recommendations for regulations.

(a) It shall be the duty of the committee to investigate supply and demand conditions for grades, sizes, and qualities of all potatoes. Whenever the committee finds that such conditions make it advisable to regulate the shipment of particular grades, sizes, or qualities of potatoes during any period in any or all portions of the production

area, it shall recommend to the Secretary the particular grades, sizes, and qualities, or any combination thereof, of such potatoes deemed advisable to be shipped during such period: *Provided*, That the committee shall not recommend to the Secretary any regulation limiting the shipment of U.S. No. 1 grade or better, as such grades are defined in United States Standards for Potatoes in effect at the time of recommendation.

(b) In determining the grades, sizes, and qualities of potatoes or any and all combinations thereof deemed advisable to be regulated in view of the prospective demand thereof, the committee shall give due consideration to the following factors:

- (1) Market prices, including prices by grades and sizes, of potatoes for which regulation is recommended;
- (2) Potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets;
- (3) Available supply, quality, and condition of potatoes in the production area and other production areas;
- (4) Supplies from competing areas and regions producing potatoes;
- (5) The trend and level of consumer income; and
- (6) Other relevant factors.

**§ 953.42 Issuance of regulations.**

Whenever the Secretary shall find, from the recommendations, information and evidence submitted by the committee, or from other available information, that to limit the shipment of potatoes to particular grades, sizes, and qualities thereof in any or all portions of the production area would tend to effectuate the declared policy of the act, he shall so limit by appropriate regulations thereon the shipments of such potatoes during a specified period. The Secretary shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers: *Provided*, That no regulations shall be issued under this subpart limiting the shipment of U.S. No. 1 grade or better, as such grades are defined in United States Standards for Potatoes in effect at the time such regulations are issued.

**§ 953.43 Minimum standards of quality.**

(a) *Recommendation.* Whenever the committee deems it advisable to establish and maintain minimum standards of quality governing the shipment of potatoes, it shall recommend to the Secretary such minimum standards of quality in terms of grades, sizes, or both, below which shipments are to be prohibited. At the time of submitting each such recommendation, the committee shall also submit to the Secretary the supporting data and information upon which it acted in making such recommendation. The committee shall submit in support of its recommendations such other data and information as may be requested by the Secretary, and shall promptly give adequate notice to all handlers and growers of each such recommendation.

(b) *Establishment.* Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to prohibit the shipment of potatoes below certain specified minimum grades, or smaller than certain specified minimum sizes, or both, would be in the public interest and would tend to effectuate the declared policy of the act, he shall so prohibit the shipment of such potatoes. The Secretary shall immediately notify the committee of the issuance of each such regulation, and the committee shall promptly give adequate notice thereof to handlers and growers.

(c) *Modification or suspension.* (1) The committee may recommend to the Secretary the modification, suspension, or termination of orders relating to minimum standards provided for or established pursuant to this subpart. If the Secretary finds, upon the basis of such recommendation and information, or upon the basis of other available information, that to modify, suspend, or terminate such orders relating to minimum standards of quality will tend to effectuate the declared policy of the act, he shall so modify or suspend such standards for (i) a specified period of time, or (ii) for an indefinite period of time.

(2) The Secretary shall immediately notify the committee and the committee shall promptly give notice to growers and handlers, of any order



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issued by the Secretary modifying, suspending, or terminating any orders relating to minimum standards of quality established pursuant to, or provided for, in this subpart.

### § 953.44 Limitation of regulations.

(a) Nothing contained in this subpart shall authorize any limitation of the shipment of potatoes for any of the following purposes:

(1) Potatoes shipped for consumption by charitable institutions or for distribution by relief agencies;

(2) Potatoes shipped for manufacturing or conversion into byproducts, except for manufacturing or conversion into specified products recommended by the committee for regulation and approved by the Secretary therefor; and

(3) Upon recommendation of the committee and approval of the Secretary, potatoes shipped for livestock feed, export, or for other specified purposes.

(b) The Secretary shall give prompt notice to the committee of any approval issued by him under the provisions of this section. The committee may prescribe adequate safeguards to prevent potatoes shipped for the purposes stated above from entering the current of interstate commerce or directly burdening, obstructing, or affecting such commerce contrary to the provisions of this subpart, which safeguards may include (1) a requirement by the committee that growers and handlers who ship potatoes pursuant to this section shall file applications to do so with the committee and (2) Federal-State inspection provided by § 953.50 and the payment of a pro rata share of expenses provided by § 953.34: *Provided*, That such inspection and payment of expenses may be required at different times than otherwise specified by the aforesaid sections. The committee may issue certificates of privilege for shipments of potatoes affected or to be affected under the provisions of this section and shall make a weekly report to the Secretary showing the number of certificates applied for, the number of bushels of potatoes covered by such applications, the number of certificates denied and granted, the number of bushels of potatoes shipped under duly issued certificates,

and such other information as may be requested by the Secretary. The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

### § 953.45 Minimum quantities.

The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, quantities below which shipments shall be free from regulations issued pursuant to: § 953.42, Regulations, § 953.50, Inspection and certification, and § 953.34, Assessments.

[33 FR 8504, June 8, 1968]

## INSPECTION AND CERTIFICATION

### § 953.50 Inspection and certification.

The Southeastern Potato Committee shall require, with approval of the Secretary, that whenever regulations are in effect pursuant to this subpart, each first handler shall, prior to making each shipment of potatoes cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Each handler shall make arrangements with the inspecting agency to forward promptly to the committee a copy of each inspection certificate, issued as aforesaid.

## EFFECTIVE TIME AND TERMINATION

### § 953.65 Effective time.

The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart, and shall continue in force until terminated in one of the ways specified in § 953.66.

### § 953.66 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

**§ 953.67**

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effected only if announced on or before October 31, of the then current fiscal year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them, cease to be in effect.

**§ 953.67 Proceedings after termination.**

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all funds and the property then in the possession of, or under control of, the committee, including claims for any funds unpaid, or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred, or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

**7 CFR Ch. IX (1-1-14 Edition)**

**§ 953.68 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart, or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise in connection with any provision, of this subpart, or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart, or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary, or of any other person with respect to any such violation.

**MISCELLANEOUS PROVISIONS**

**§ 953.75 Reports and records.**

(a) Upon the request of the committee, with the approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its duties under this subpart. The Secretary shall have the right to modify, change, or rescind requests for any reports pursuant to this section.

(b) Each handler shall establish and maintain for at least two succeeding years such records and documents with respect to potatoes received and potatoes disposed of by him as will substantiate the required reports.

(c) For the purpose of assuring compliance with the recordkeeping requirements and verifying reports filed by handlers, the Secretary, and the committee through its duly authorized employees, shall have access to such records.

(d) All reports and records furnished or submitted by handlers to, or obtained by the employees of, the committee which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from records shall at all times be kept in the custody and under the

control of one or more employees of the committee who shall disclose such information to no person other than the Secretary, or as authorized by the Secretary. Compilations of general reports from data and information submitted by handlers is authorized subject to the prohibition of disclosure of individual handlers' identity or operations.

[33 FR 8504, June 8, 1968]

**§ 953.76 Compliance.**

Except as provided in this subpart, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall ship potatoes except in conformity to the provisions of this subpart.

**§ 953.77 Right of the Secretary.**

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

**§ 953.78 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart except with respect to acts done under and during the existence of this subpart.

**§ 953.79 Agents.**

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

**§ 953.80 Derogation.**

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 953.81 Personal liability.**

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

**§ 953.82 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

**§ 953.83 Amendments.**

Amendments to this subpart may be proposed from time to time by the committee or by the Secretary.

**Subpart—Rules and Regulations**

GENERAL

**§ 953.100 General.**

(a) *Marketing agreement* means Marketing Agreement No. 104.

(b) *Order* means Order No. 953 (§§ 953.1 through 953.83).

(c) All other terms shall have the same meaning as when used in the marketing agreement and order.

CHANGE IN DATE FOR COMPLETING NOMINATIONS, TERM OF OFFICE, AND FISCAL PERIOD

**§ 953.120 Nomination date.**

The names of committee nominees shall be supplied to the Secretary in

## § 953.121

such manner and form as he may prescribe, pursuant to § 953.18, not later than January 31 of each year.

[34 FR 17328, Oct. 27, 1969]

### § 953.121 Term of office.

The term of office, pursuant to § 953.16, which began November 1, 1968, shall end March 31, 1970. Thereafter, each term of office shall begin April 1 of each year and end March 31 of the following year, both dates inclusive.

[34 FR 17828, Oct. 27, 1969]

### § 953.122 Fiscal period.

The fiscal period, pursuant to § 953.9, which began on April 1, 1976, shall end on May 31, 1977. Thereafter, each fiscal period shall begin on June 1 of each year and end on May 31 of the following year, both dates inclusive.

[41 FR 42184, Sept. 27, 1976]

### § 953.123 Reestablishment of districts and reapportionment of committee membership.

(a) Pursuant to § 953.12: (1) The counties of James City and Nansemond and the cities of Chesapeake and Virginia Beach (currently District No. 3) are reestablished as a part of District No. 2; (2) the membership of the Southeastern Potato Committee shall be apportioned among the districts of the production are so as to provide the following representation: Two producer members and one handler member from each of Districts No. 1, 4, and 5; one producer member and two handler members from District No. 2. The respective alternates shall be selected on the same basis of representation as the members.

(b) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

[37 FR 927, Jan. 21, 1972]

## Subpart—Assessment Rates

### § 953.253 Assessment rate.

On and after June 1, 1998, an assessment rate of \$0.01 per hundredweight is established for Southeastern States potatoes.

[63 FR 32968, June 17, 1998]

## 7 CFR Ch. IX (1–1–14 Edition)

## Subpart—Handling Regulations

### § 953.322 Handling regulation.

During the period beginning June 5 and ending July 31 each season, no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Minimum grade and size requirements.* All round white varieties of potatoes shall be U.S. No. 2 or better grade, 1½ inches (38.1 mm) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any round white potatoes unless an appropriate inspection certificate covering them has been issued by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, “other processing” as hereinafter defined, livestock feed, charity or to shipments of round red, long white or Russet variety potatoes. However, the handler of any potatoes shipped for such special purposes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler making shipments of potatoes for canning, freezing, “other processing,” livestock feed or charity, or making shipments of round red, long white or Russet variety potatoes in accordance with paragraph (c) of this section shall:

(1) Notify the committee of the handler’s intent to ship potatoes pursuant to paragraph (c) of this section by applying forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term *U.S. No. 2* shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes as amended (7 CFR 2851.1540–2851.1566), including the tolerances set forth in it. The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part, both as amended.

[47 FR 22500, May 25, 1982, as amended at 49 FR 23334, June 6, 1984; 74 FR 65393, Dec. 10, 2009]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g. sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

## PART 955—VIDALIA ONIONS GROWN IN GEORGIA

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